## REMARKS

Claims 1-15 are all the claims pending in the application. Applicants amend claim 1 to clarify that the claimed composition is a cleansing composition, and to delete reference to polyoxyethylene sorbit fatty acid ester. Support for the amendment can be found, *inter alia*, in the specification at page 7, lines 13 to 17 and lines 21-23.

Applicant further submits herewith the Rule 132 Declaration of Mr. Tadashi Yoneda, inventor of the present invention, in order to establish patentability.

Entry and consideration are respectfully requested.

**The Claims are Patentable under 35 U.S.C. § 103(a) over the Art of Record**

Claims 1-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yoneda et al. (WO99/62482) in view of Noda (JP07-304630).

Claims 1-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sakai et al. (JP2000136114) in view of Yoneda et al.

Claims 1-6, 8, 10, 12 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ito et al. (JP09-165320) in view of Yoneda et al.

Instant claim 1 is amended to recite "A cleansing cosmetic composition, comprising 0.1 to 5 mass% of a lipopeptide compound, and 0.1 to 20 mass% of a polyoxyethylene glyceryl ether fatty acid ester." The present invention provides the unexpected benefits of improving in cosmetics both washability, which is an important property for a cleansing cosmetic, and preservation stability, by adding a specific amount of the polyoxyethylene glyceryl ether fatty acid ester with a specific amount of lipopeptide compound (see page 7, lines 13 to 17 of the present specification). The specific claimed features, and the specific benefits thereof, are neither taught or suggested by the art cited by the Examiner.

**Yoneda et al and Noda**

Yoneda et al describes a cosmetic composition comprising a lipopeptide compound, and teaches that polyoxyethylene sorbitan fatty acid ester may be used in combination as a surfactant. However, Yoneda et al neither describes nor suggests using polyoxyethylene glyceryl ether fatty acid ester in combination with a lipopeptide compound.

As is clear from the comparative experiment shown in the attached Declaration of Tadashi Yoneda (an executed version of which will be submitted promptly after it is received), balance between good washability and preservation stability cannot be achieved if polyoxyethylene sorbitan fatty acid ester is used in place of polyoxyethylene glyceryl ether fatty acid ester.

Further, Noda relates to an invention which can achieve its desired effects only by using its fatty acid ester in combination with a specific maltitol ether. Therefore, it would not have been obvious to use the polyoxyethylene glyceryl fatty acid ester of Noda as a substitute for the polyoxyethylene sorbitan fatty acid ester of Yoneda et al.

Particularly, Noda mentions in para. [0024] that "though polyoxyethylene glyceryl fatty acid ester (polyoxyethylene glyceryl TORIISO stearate) alone is relatively excellent in the makeup removing effect, it tends to lack in foaming property and freshen-up feeling". That is, although Noda suggests that polyoxyethylene glyceryl fatty acid ester is excellent in removing cosmetics, it does not provide a fresh feeling, which corresponds to the washability of the present invention. Accordingly, improvements in washability would not have been expected by using the polyoxyethylene glyceryl fatty acid ester of Noda in the invention of Yoneda et al.

Hence, the balance between washability and preservation stability achieved by the present invention, where a lipopeptide compound and polyoxyethylene glyceryl ether fatty acid

ester are used in combination, would not have been obvious from the teachings of Yoneda et al and Noda.

**Sakai and Yoneda et al**

The deficiencies of Yoneda et al are discussed above.

Further, the polyoxyethylene glyceryl ether fatty acid ester used in the present invention is different in structure from the polyoxyethylene fatty acid ester exemplified in Sakai et al. Also, Sakai et al is based on the finding that N-acylglutamine acid diester is effective in removing highly water-resistant cosmetics. Sakai et al shows polyoxyethylene fatty acid ester only as an example of a nonionic surfactant which has been conventionally used in cosmetics, and only as an optional ingredient.

In contrast, the present invention provides the unexpected benefit of improving washability and preservation stability, as noted above, by using a specific lipopeptide compound and polyoxyethylene glyceryl ether fatty acid ester, in combination, which would not have been obvious over the teachings of Sakai et al and Yoneda et al.

**Ito et al and Yoneda et al**

The deficiencies of Yoneda et al are discussed above.

Ito et al also neither describes or suggests the use of, or the unexpected benefits arising from, the claimed combination that includes polyoxyethylene glyceryl ether fatty acid ester.

In view of the foregoing, the present invention would not have been obvious over any of Yoneda et al., Noda, Sakai et al and/or Ito et al, alone or in combination.

Withdrawal of the rejections are earnestly solicited.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Ryan C. Cady/

Ryan C. Cady
Registration No. 56,762

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: July 29, 2009